

SENATE BILL No. 82

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2; IC 12-17.2; IC 16-41-37-2; IC 31-36-1-4.

Synopsis: Regulation of preschools. Specifies requirements for licensure of preschools. Requires the division of family and children to administer the licensure of preschools.

Effective: July 1, 2003.

Mrvan

January 7, 2003, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 82

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-7-2-15, AS AMENDED BY P.L.272-1999,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 15. "Applicant" means the following:
4 (1) For purposes of the following statutes, a person who has
5 applied for assistance for the applicant or another person under
6 any of the following statutes:
7 (A) IC 12-10-6.
8 (B) IC 12-10-12.
9 (C) IC 12-13.
10 (D) IC 12-14.
11 (E) IC 12-15.
12 (F) IC 12-17-1.
13 (G) IC 12-17-2.
14 (H) IC 12-17-3.
15 (I) IC 12-17-9.
16 (J) IC 12-17-10.
17 (K) IC 12-17-11.



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- 1 (L) IC 12-19.
 2 (2) For purposes of IC 12-17-12, the meaning set forth in
 3 IC 12-17-12-1.
 4 (3) For purposes of IC 12-17-13, the meaning set forth in
 5 IC 12-17-13-1.
 6 (4) For the purposes of IC 12-17.2, a person who seeks a license
 7 to operate a child care center, **preschool**, or child care home.
 8 (5) For purposes of IC 12-17.4, a person who seeks a license to
 9 operate a child caring institution, foster family home, group home,
 10 or child placing agency.

11 SECTION 2. IC 12-7-2-143.5 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 143.5. "Preschool", for
 13 purposes of IC 12-17.2, means a program that provides an educational
 14 experience through an age appropriate written curriculum for children
 15 at least thirty (30) months of age who are not eligible to enter
 16 kindergarten and that:

- 17 (1) conducts sessions for not more than four (4) hours a day;
 18 (2) enrolls children for only one (1) session a day; **and**
 19 (3) does not serve meals on the premises.
 20 ~~(4) maintains a child to staff ratio of not more than fifteen (15)~~
 21 ~~children to one (1) staff member;~~
 22 ~~(5) supervises children at all times with a person who is at least~~
 23 ~~eighteen (18) years of age; and~~
 24 ~~(6) does not operate for more than ten (10) consecutive days.~~

25 SECTION 3. IC 12-7-2-149, AS AMENDED BY P.L.283-2001,
 26 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2003]: Sec. 149. "Provider" means the following:

- 28 (1) For purposes of IC 12-10-7, the meaning set forth in
 29 IC 12-10-7-3.
 30 (2) For purposes of the following statutes, an individual, a
 31 partnership, a corporation, or a governmental entity that is
 32 enrolled in the Medicaid program under rules adopted under
 33 IC 4-22-2 by the office of Medicaid policy and planning:
 34 (A) IC 12-14-1 through IC 12-14-9.5.
 35 (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and
 36 IC 12-15-34.
 37 (C) IC 12-17-10.
 38 (D) IC 12-17-11.
 39 (E) IC 12-17.6.
 40 (F) IC 12-17.7.
 41 (3) For purposes of IC 12-17-9, the meaning set forth in
 42 IC 12-17-9-2.



(4) For the purposes of IC 12-17.2, a person who operates a child care center, **preschool**, or child care home under IC 12-17.2.

(5) For purposes of IC 12-17.4, a person who operates a child caring institution, foster family home, group home, or child placing agency under IC 12-17.4.

SECTION 4. IC 12-17.2-1-1, AS AMENDED BY P.L.215-2001, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This article does not apply to the following:

(1) A child care center, **preschool**, or child care home licensed or operated by any of the following:

(A) Programs for children in **preschool** or grades kindergarten through 12 that are operated under the authority of the department of education or that are operated with the assistance of the department of education.

(B) The division of mental health and addiction.

(C) The state department of health.

(D) The department of correction.

(2) A county jail or detention center.

SECTION 5. IC 12-17.2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The division shall perform the following duties:

(1) Administer the licensing and monitoring of child care centers, **preschools**, or child care homes in accordance with this article.

(2) Ensure that a criminal history background check of the applicant is completed before issuing a license.

(3) Ensure that a criminal history background check of a child care ministry applicant for registration is completed before registering the child care ministry.

(4) Provide for the issuance, denial, suspension, and revocation of licenses.

(5) Cooperate with governing bodies of child care centers, **preschools**, and child care homes and their staffs to improve standards of child care.

(6) Prepare at least biannually a directory of licensees with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.

(7) Deposit all license application fees collected under section 2 of this chapter in the child care fund.

(8) Require each child care center, **preschool**, or child care home to record proof of a child's date of birth before accepting the child. A child's date of birth may be proven by the child's original birth

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certificate or other reliable proof of the child's date of birth,
including a duly attested transcript of a birth certificate.

SECTION 6. IC 12-17.2-2-1.5, AS AMENDED BY P.L.278-2001,
SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2003]: Sec. 1.5. (a) The division shall require all child care
centers, **preschools**, or child care homes to submit a report containing
the names and birth dates of all children who are enrolled in the child
care center, **preschool**, or child care home within three (3) months
from the date the child care center, **preschool**, or child care home
accepts its first child, upon receiving the consent of the child's parent,
guardian, or custodian as required under subsection (b). The division
shall require all child care centers, **preschools**, and child care homes
that receive written consent as described under subsection (b) to submit
a monthly report of the name and birth date of each additional child
who has been enrolled in or withdrawn from the child care center,
preschool, or child care home during the preceding thirty (30) days.

(b) The division shall require all child care centers, **preschools**, or
child care homes to request whether the child's parent, guardian, or
custodian desires the center, **preschool**, or home to include the child's
name and birth date in the reports described under subsection (a)
before enrolling the child in the center, **preschool**, or home. No child's
name or birth date may be included on the report required under
subsection (a) without the signed consent of the child's parent,
guardian, or custodian. The consent form must be in the following
form:

"I give my permission for _____ (name of day
care center, **preschool**, or home) to report the name and birth date
of my child or children to the division of family and children
pursuant to IC 12-17.2-2-1.5.

Name of child _____

Birth date _____

Signature of parent, guardian, or custodian _____

Date _____".

(c) The division shall submit a monthly report of the information
provided under subsection (a) to the Indiana clearinghouse on missing
children established under IC 10-1-7.

(d) The division shall require that a person who transports children
who are in the care of the child care center on a public highway (as
defined in IC 9-25-2-4) within or outside Indiana in a vehicle designed
and constructed for the accommodation of more than ten (10)
passengers must comply with the same requirements set forth in

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IC 20-9.1-5-6.6 for a public elementary or secondary school or a preschool operated by a school corporation.

SECTION 7. IC 12-17.2-2-2, AS AMENDED BY P.L.215-2001, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The division may do the following:

(1) Prescribe forms for reports, statements, notices, and other documents required by this article or by the rules adopted under this article.

(2) Increase public awareness of this article and the rules adopted under this article by preparing and publishing manuals and guides explaining this article and the rules adopted under this article.

(3) Facilitate compliance with and enforcement of this article through the publication of materials under subdivision (2).

(4) Prepare reports and studies to advance the purpose of this article.

(5) Seek the advice and recommendations of state agencies whose information and knowledge would be of assistance in writing, revising, or monitoring rules developed under this article. These agencies, including the office of the attorney general, state department of health, division of mental health and addiction, bureau of criminal identification and investigation, and fire prevention and building safety commission, shall upon request supply necessary information to the division.

(6) Make the directory of licensees available to the public for a charge not to exceed the cost of reproducing the directory.

(7) Charge a reasonable processing fee for each license application and renewal as follows:

(A) For a:

(i) child care center license; **or**

(ii) **preschool license;**

a fee of two dollars (\$2) per licensed child capacity.

(B) For a:

(i) child care center; **or**

(ii) **preschool;**

new inquiry application packet, a fee not to exceed five dollars (\$5).

(C) For a child care home license new inquiry application packet, a fee not to exceed five dollars (\$5).

(D) For a child care home annual inspection, a fee not to exceed twenty-five dollars (\$25).

(8) Exercise any other regulatory and administrative powers necessary to carry out the functions of the division.

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SECTION 8. IC 12-17.2-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The division shall adopt rules under IC 4-22-2 concerning the licensing and inspection of child care centers, **preschools**, and child care homes after consultation with the following:

- (1) State department of health.
- (2) Fire prevention and building safety commission.
- (3) The board.

(b) The rules adopted under subsection (a) shall be applied by the division and state fire marshal in the licensing and inspection of applicants for a license and licensees under this article.

SECTION 9. IC 12-17.2-2-8, AS AMENDED BY P.L.50-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The division shall exempt from licensure the following programs:

- (1) A program for children enrolled in **preschool or** grades kindergarten through 12 that is operated by the department of education or a public or private school.
- (2) A program for children who become at least three (3) years of age as of December 1 of a particular school year (as defined in IC 20-10.1-2-1) that is operated by the department of education or a public or private school.
- ~~(3) A nonresidential program for a child that provides child care for less than four (4) hours a day.~~
- ~~(4)~~ (3) A recreation program for children that operates for not more than ninety (90) days in a calendar year.
- ~~(5)~~ (4) A program whose primary purpose is to provide social, recreational, or religious activities for school age children, such as scouting, boys club, girls club, sports, or the arts.
- ~~(6)~~ (5) A program operated to serve migrant children that:
 - (A) provides services for children from migrant worker families; and
 - (B) is operated during a single period of less than one hundred twenty (120) consecutive days during a calendar year.
- ~~(7)~~ (6) A child care ministry registered under IC 12-17.2-6.
- ~~(8)~~ (7) A child care home if the provider:
 - (A) does not receive regular compensation;
 - (B) cares only for children who are related to the provider;
 - (C) cares for less than six (6) children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative; or
 - (D) operates to serve migrant children.



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(9) (8) A child care program operated by a public or private secondary school that:

(A) provides day care on the school premises for children of a student or an employee of the school;

(B) complies with health, safety, and sanitation standards as determined by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter; and

(C) substantially complies with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under section 4 of this chapter for child care centers or in accordance with a variance or waiver of a rule governing child care centers approved by the division under section 10 of this chapter.

(10) (9) A school age child care program (commonly referred to as a latch key program) established under IC 20-5-2-1.5 that is operated by:

(A) the department of education;

(B) a public or private school; or

(C) a public or private organization under a written contract with:

(i) the department of education; or

(ii) a public or private school.

SECTION 10. IC 12-17.2-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) A program operated to serve migrant children that is exempted under ~~section 8(6)~~ **section 8(5)** of this chapter and is certified by the United States Department of Health and Human Services shall be:

(1) granted a provisional license by the division, for a limited period not to exceed one (1) year and that is subject to review every three (3) months, if the division determines that the program reasonably complies with the rules adopted by the division; and

(2) inspected by the state fire marshal's office.

(b) The division and the fire prevention and building safety commission shall adopt rules under IC 4-22-2 that apply only to programs operated to serve migrant children that take into consideration the fact that the programs:

(1) operate in donated space;

(2) provide services for children from migrant worker families; and



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(3) are operated during a single period of less than one hundred twenty (120) consecutive days during a calendar year.

(c) This section does not prohibit a program operated to serve migrant children from applying for a license under this article.

SECTION 11. IC 12-17.2-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The division may grant a variance or waiver of a rule governing child care centers, **preschools**, child care homes, child caring institutions, foster homes, group homes, or child placing agencies. A variance or waiver granted under this section must promote statewide practices and must protect the rights of persons affected by this article.

(b) The division may grant a variance to a rule if an applicant for a license or a licensee under this chapter does the following:

(1) Submits to the division a written request for the variance in the form and manner specified by the division.

(2) Documents that compliance with an alternative method of compliance approved by the division will not be adverse to the health, safety, or welfare of a child receiving services from the applicant for the variance, as determined by the division.

(c) A variance granted under subsection (b) must be conditioned upon compliance with the alternative method approved by the division. Noncompliance constitutes the violation of a rule of the division and may be the basis for revoking the variance.

(d) The division may grant a waiver of a rule if an applicant for a license or a licensee under this chapter does the following:

(1) Submits to the division a written request for the waiver in the form and manner specified by the division.

(2) Documents that compliance with the rule specified in the application for the waiver will create an undue hardship on the applicant for the waiver, as determined by the division.

(3) Documents that the applicant for the waiver will be in substantial compliance with the rules adopted by the division after the waiver is granted, as determined by the division.

(4) Documents that noncompliance with the rule specified in the application for a waiver will not be adverse to the health, safety, or welfare of a child receiving services from the applicant for the waiver, as determined by the division.

(e) Except for a variance or waiver of a rule governing child care homes or foster homes, a variance or waiver of a rule under this section that conflicts with a building rule or fire safety rule adopted by the fire prevention and building safety commission is not effective until the variance or waiver is approved by the fire prevention and building

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safety commission.

SECTION 12. IC 12-17.2-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 7. Regulation of Preschools

Sec. 1. (a) A person may not operate a preschool without a preschool license issued under this chapter.

(b) The state or a political subdivision of the state may not operate a preschool without a preschool license issued under this chapter.

(c) A person may not operate a preschool licensed under this chapter if:

- (1)** the number of children maintained on the premises at any time is greater than the number authorized by the license; or
- (2)** the children are maintained in a building or place not designated by the license.

Sec. 2. (a) A preschool license may be issued only if a preschool is in compliance with food, health, safety, and sanitation standards as determined by the division under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(b) A preschool license may be issued only if the preschool is in substantial compliance with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(c) The division may issue a waiver or variance regarding a determination by the division or the state fire marshal under subsections (a) and (b).

(d) The division may issue a preschool license under this chapter only if the preschool:

- (1)** maintains a child to staff ratio of not more than fifteen (15) children to one (1) staff member;
- (2)** supervises children at all times with an individual who is at least eighteen (18) years of age; and
- (3)** is staffed, when children are being cared for, by at least one (1) individual who is currently certified in a program on pediatric cardiopulmonary resuscitation and pediatric airway obstruction under the American Heart Association's Basic Life Support Course D or any other comparable course approved by the division.

(e) The county office of family and children shall provide, not

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more than two (2) business days after receiving a request for the information, copies of substantiated noncompliances and other substantiated complaints filed with the division concerning a licensed preschool.

Sec. 3. (a) An applicant must apply for a preschool license on forms provided by the division.

(b) An applicant must submit additional information required by the division as part of an application.

(c) An applicant must submit with an application a statement attesting that the applicant:

(1) has not been convicted of a:

(A) felony; or

(B) misdemeanor relating to the health or safety of a child; and

(2) has not been charged with a:

(A) felony; or

(B) misdemeanor relating to the health or safety of a child; during the pendency of the application.

(d) An applicant must submit the necessary information, forms, or consents for the division to conduct a criminal history check.

(e) An applicant must:

(1) conduct a criminal history check of the applicant's employees and volunteers; and

(2) maintain records of each criminal history check.

Sec. 4. The following constitute sufficient grounds for denial of a preschool license application:

(1) A determination by the division of child abuse or neglect (as defined in IC 31-9-2-14) by the applicant.

(2) A criminal conviction of the applicant, or of an employee or a volunteer of the applicant, of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the division that the applicant made false statements in the records required by the division.

Sec. 5. The division may not act on an incomplete application for a preschool license under this chapter. The division shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

Sec. 6. The division shall investigate a person seeking preschool

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1 licensure to determine whether the person is in compliance with
 2 this article and the rules adopted under this article. The
 3 investigation shall be conducted at a reasonable time and in a
 4 reasonable manner, in announced or unannounced visits. Activities
 5 may include onsite inspections, record reading, observation, and
 6 interviewing. The division may require that evidence of compliance
 7 with rules be presented in a form and manner specified in the rules.

8 **Sec. 7.** The division shall issue a preschool license to an
 9 applicant that meets all license requirements when an investigation
 10 shows the applicant to be in compliance under this article.

11 **Sec. 8.** A preschool may be eligible to receive a variance from
 12 the requirements of this chapter by complying with
 13 IC 12-17.2-2-10.

14 **Sec. 9. (a)** The division shall deny a preschool license if an
 15 applicant fails to meet the requirements for a preschool license.

16 **(b)** The division shall send written notice by certified mail that
 17 an application has been denied and provide reasons for the denial.

18 **(c)** An administrative hearing concerning the denial of a
 19 preschool license shall be provided upon written request by the
 20 applicant. The request must be made not more than thirty (30)
 21 calendar days after receiving the written notice under subsection
 22 **(b).**

23 **(d)** An administrative hearing shall be held not more than sixty
 24 (60) calendar days after receiving a written request under
 25 subsection **(c).**

26 **(e)** An administrative hearing under this section must be
 27 conducted under IC 4-21.5-3.

28 **(f)** The division shall issue a decision not more than sixty (60)
 29 calendar days after the conclusion of an administrative hearing
 30 under this section.

31 **Sec. 10.** The division shall investigate any premises that the
 32 division has reason to believe is used for an unlicensed preschool
 33 in circumstances under which a preschool license is required.

34 **Sec. 11. (a)** A preschool license issued under this chapter expires
 35 two (2) years after the date of issuance, unless the license is:

36 **(1)** revoked;

37 **(2)** modified to a probationary or suspended status; or

38 **(3)** voluntarily returned.

39 **(b)** A preschool license issued under this chapter:

40 **(1)** is not transferable;

41 **(2)** applies only to the licensee and the location stated in the
 42 application; and

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(3) remains the property of the division.

(c) A current preschool license shall be publicly displayed.

(d) When a licensee submits a timely application for renewal, the current preschool license remains in effect until the division issues a license or denies the application.

Sec. 12. (a) The division may grant a provisional preschool license to an applicant that is unable to demonstrate compliance with a rule because the preschool is not in full operation.

(b) A provisional license may be granted for a limited period not to exceed one (1) year and is subject to review every three (3) months.

Sec. 13. (a) The division may grant a probationary preschool license to a licensee that is temporarily unable to comply with a rule if:

(1) the noncompliance does not present an immediate threat to the health or well-being of children;

(2) the licensee files a plan with the division or the state fire marshal to correct areas of noncompliance within the probationary period; and

(3) the division or state fire marshal approves the plan.

(b) A probationary preschool license is valid for not more than six (6) months. The division may extend a probationary preschool license for one (1) additional period of six (6) months.

(c) A preschool license is invalidated when a probationary preschool license is issued.

(d) At the expiration of a probationary preschool license, the division shall:

(1) reinstate the previously issued preschool license until the end of the original term of the license;

(2) issue a new preschool license; or

(3) revoke the preschool license.

(e) Upon receipt of a probationary preschool license, the licensee shall return to the division the previously issued preschool license.

Sec. 14. The division and the state fire marshal shall:

(1) make annual onsite inspections of preschools; and

(2) keep written records of monitoring activities and inspections.

Sec. 15. A licensee shall cooperate with the division and the state fire marshal in carrying out the duties described in section 14 of this chapter, including permitting the division and the state fire marshal to conduct announced or unannounced inspections.

Sec. 16. Unscheduled visits of a preschool by a custodial parent

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or guardian of a child must be permitted whenever the preschool is in operation.

Sec. 17. (a) A licensee shall:

- (1) keep records regarding each child in the control and care of the licensee as the division requires; and
- (2) report requested information concerning a child described in subdivision (1) to the division.

(b) The division shall keep confidential:

- (1) records; and
- (2) information;

concerning a child enrolled at a preschool and the child's parents or relatives.

(c) The following are permitted access to records and information described in this section:

- (1) A state agency involved in the licensing of the preschool.
- (2) A legally mandated child protection agency.
- (3) A law enforcement agency.
- (4) An agency having the legal responsibility to care for the child enrolled at the preschool.
- (5) The parent, guardian, or custodian of the child enrolled at the preschool.

Sec. 18. (a) Upon receiving a report under IC 31-36-1-4, a preschool shall inspect the report thoroughly. If the preschool finds that a child on the report required under IC 31-36-1-4 is enrolled at the preschool, the preschool shall immediately notify the Indiana clearinghouse for information on missing children.

(b) Upon receiving a report under IC 31-36-1-4, a preschool shall attach to the child's enrollment records a notice stating that the child has been reported missing. The preschool shall remove the notice when the preschool is notified under IC 31-36-2-6 that the child has been found.

(c) If a request for the enrollment records of a missing child is received, the preschool shall:

(1) obtain:

- (A) the name, address, and telephone number of the person making the request; and
- (B) the reason the person is requesting the school records; and

(2) immediately notify the Indiana clearinghouse for information on missing children.

(d) A preschool may not:

- (1) issue a copy of the enrollment records of a child reported

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missing without authorization from the Indiana clearinghouse for information on missing children; or

(2) inform the person making a request that a notice that the child has been reported missing has been attached to the child's records.

Sec. 19. (a) A licensee that holds a preschool license issued under this chapter shall operate the preschool in compliance with rules adopted under this article and is subject to the disciplinary sanctions under subsection (b) if the division finds that the licensee has violated this article.

(b) The division may impose any of the following sanctions if the division finds that a licensee has violated this article:

(1) After complying with the procedural provisions in sections 20 through 23 of this chapter:

(A) suspend the license for not more than six (6) months; or

(B) revoke the license.

(2) Seek civil remedies under section 30 of this chapter.

Sec. 20. (a) Except as provided in section 30 of this chapter, the division shall give a licensee written notice of an enforcement action by certified mail at least thirty (30) calendar days before imposing a sanction against the licensee under this chapter.

(b) A licensee that is issued a notice under subsection (a) must be provided with an opportunity for an informal meeting with the division. The licensee must request the meeting not more than ten (10) working days after receipt of the certified notice.

Sec. 21. (a) An administrative hearing concerning a decision of the division to impose a sanction under this chapter must be provided upon a written request by the licensee. The request must be made not more than thirty (30) calendar days after the licensee receives the notice under section 20 of this chapter. The written request must be made separately from an informal meeting request made under section 20 of this chapter.

(b) An administrative hearing described in subsection (a) must be held not more than sixty (60) calendar days after the division receives the written request.

Sec. 22. A hearing requested under section 21 of this chapter shall be held under IC 4-21.5-3.

Sec. 23. The division shall issue a decision following a hearing held under section 22 of this chapter not more than sixty (60) calendar days after the conclusion of the hearing.

Sec. 24. If a preschool's license is suspended, the preschool shall

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1 cease operation and may not display the license.

2 **Sec. 25.** For a preschool's suspended license to be reinstated, the
3 following must occur:

4 (1) The licensee must, not more than thirty (30) days after
5 receipt of notice of the suspension, submit a plan of corrective
6 action to the division for approval.

7 (2) The plan of corrective action must outline the steps and
8 timetable for immediate correction of the violations that
9 caused the division to suspend the preschool's license.

10 (3) The division must approve the plan.

11 **Sec. 26.** Following the term of a suspension of a preschool's
12 license, the division shall do one (1) of the following:

13 (1) Reinstate the license for the term of the original license.

14 (2) Revoke the license.

15 (3) Issue a new license.

16 (4) Deny a reapplication.

17 **Sec. 27.** A preschool shall cease operation when the license of the
18 preschool is revoked.

19 **Sec. 28. (a)** After a preschool license is revoked or suspended,
20 the division shall provide written notice to each person responsible
21 for a child enrolled at the preschool to ensure that the child is
22 removed from enrollment at the preschool.

23 (b) A written notice under subsection (a) must:

24 (1) be sent to the last known address of the person responsible
25 for a child enrolled at the preschool; and

26 (2) state that the license of the preschool has been revoked or
27 suspended.

28 **Sec. 29.** A final decision of the division made after a hearing
29 held under this chapter is subject to judicial review under
30 IC 4-21.5-5.

31 **Sec. 30. (a)** The division shall investigate a report of operation
32 of an unlicensed preschool and report the division's findings to the
33 attorney general, the county office of family and children attorney,
34 and the prosecuting attorney in the county where the preschool is
35 located.

36 (b) The attorney general or the county office of family and
37 children attorney may do the following:

38 (1) Seek the issuance of a search warrant to assist in an
39 investigation described in subsection (a).

40 (2) File an action for injunctive relief to stop the operation of
41 a preschool if there is reasonable cause to believe that:

42 (A) the preschool is operating without a preschool license

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required under this chapter; or

(B) a licensee's noncompliance with this article and the rules adopted under this article creates an imminent danger:

(i) of serious bodily injury; or

(ii) to the health;

of a child.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) per day for each day a preschool is operating without a license required under this chapter.

(c) The division may provide for the removal of children from a preschool described in subsection (b).

(d) An opportunity for an informal meeting of a person operating a preschool described in subsection (b)(2) with the division must be available after injunctive relief is ordered.

(e) Civil penalties collected under this section shall be deposited in the child care fund.

(f) Section 34 of this chapter does not apply to civil penalties imposed under this section.

Sec. 31. A court order granted under section 30(b)(2)(A) of this chapter expires when the preschool is issued a license.

Sec. 32. A court order granted under section 30(b)(2)(B) of this chapter expires upon the later of the following:

(1) Sixty (60) calendar days after the order is issued.

(2) When a final division decision is issued under sections 21 through 23 of this chapter, if notice of an enforcement action is issued under section 20 of this chapter.

Sec. 33. The following constitute sufficient grounds for revocation of a preschool license:

(1) A determination by the division of child abuse or neglect (as defined in IC 31-9-2-14) by the licensee.

(2) A criminal conviction of the licensee, or of an employee or a volunteer of the licensee, of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(3) A determination by the division that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the division that the licensee made false statements in records required by the division.

Sec. 34. (a) In addition to other penalties imposed under this chapter, the division may impose a civil penalty of not more than

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1 one thousand dollars (\$1,000) for a violation of this article.

2 (b) The division shall deposit civil penalties collected under this
3 section in the child care fund.

4 **Sec. 35. A person who knowingly or intentionally violates this**
5 **chapter commits a Class B misdemeanor.**

6 SECTION 13. IC 16-41-37-2 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this
8 chapter, "public building" means an enclosed structure or the part of an
9 enclosed structure that is one (1) of the following:

- 10 (1) Occupied by an agency of state or local government.
- 11 (2) Used as a classroom building or a dining area at a state
- 12 educational institution (as defined in IC 20-12-0.5-1).
- 13 (3) Used as a public school (as defined in IC 20-10.1-1-2).
- 14 (4) Licensed as a health facility under IC 16-21 or IC 16-28.
- 15 (5) Used as a station for paid firefighters.
- 16 (6) Used as a station for paid police officers.
- 17 (7) Licensed as a child care center, **preschool**, or child care home
- 18 or registered as a child care ministry under IC 12-17.2.
- 19 (8) Licensed as a hospital under IC 16-21 or a county hospital
- 20 subject to IC 16-22.
- 21 (9) Used as a provider's office.

22 SECTION 14. IC 31-36-1-4 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. Not later than fifteen
24 (15) days after completion of the report required by section 1 of this
25 chapter, the law enforcement agency shall forward the contents of the
26 report to the last:

- 27 (1) child care center, **preschool**, or child care home in which the
- 28 child was enrolled; or
- 29 (2) school the child attended in Indiana, if any;
- 30 if the child is less than thirteen (13) years of age.

31 SECTION 15. [EFFECTIVE JULY 1, 2003] **(a) Notwithstanding**
32 **IC 12-17.2-7, as added by this act, a person that operates a**
33 **preschool (as defined in IC 12-7-2-143.5, as amended by this act)**
34 **on June 30, 2003, is not required to be licensed under IC 12-17.2-7,**
35 **as added by this act, until January 1, 2004.**

36 **(b) This SECTION expires December 31, 2005.**

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